

REMARKS

Claims 1-31 are pending. Claims 29-31 are allowed. Claims 4, 9, and 22-26 are objected to. Claims 1-3, 5-8, 10-21, and 27-28 are rejected. Claims 1, 8, and 17 have been amended. No new matter has been added. The rejections of the claims are respectfully traversed in light of the amendments and following remarks, and reconsideration is requested.

Rejections Under 35 U.S.C. §§ 102 and 103

Claims 1-3 and 5-6 are rejected under 35 U.S.C. § 102(e) as being anticipated by Nagayoshi (U.S. Patent No. 6,603,863).

Claims 8, 10, and 12-13 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Burris et al. (U.S. Patent No. 5,708,724) (hereinafter "Burris") in view of Braund (U.S. Patent No. 6,373,942).

Claims 8, 11, 13-16, and 19 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Jensen et al. (U.S. Patent No. 6,101,260) (hereinafter "Jensen") in view of Braund.

Claims 17, 20, and 27-28 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Nagayoshi in view of Fitzgerald (U.S. Patent No. 5,113,428).

Claims 7 and 21 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Nagayoshi.

In rejecting Claim 1, the Examiner writes in part that Nagayoshi teaches "an ear clasp headset, comprising . . . a headset body (40) operably coupled to the speaker capsule, wherein the headset body has a curved profile substantially perpendicular to the plane of the user's ear (fig. 6); and a headset tail (34) operably coupled to the headset body, wherein the headset tail comprises a curved structure capable of flexing open and close for contacting a lower portion of the user's ear."

Applicant submits that Nagayoshi discloses that "arm 34 is connected at its connecting portion 36 with the band 12 so that it can rotate about the axis 32" (Nagayoshi, col.5, lines 11-13; FIG. 6) (emphasis added) and that "a restriction mechanism generally indicated by

reference numeral 66 is provided in order to limit a moving range or angle of the arm 34 in between a first position 62 where the arm 34 lies against the band 12 and a second position 64 where the arm 34 is angled away from the band 12" (Nagayoshi, col.5, lines 26-41; FIGS. 3 and 6).

Thus, Nagayoshi discloses arm 34 which is connected to band 12 and rotates about an axis 32. Nagayoshi does not disclose or suggest a headset tail which includes a curved structure with a free end capable of flexing open and close for contacting a lower portion of the user's ear.

Burris does not remedy the deficiencies of Nagayoshi noted above. Burris discloses a headset having a detachable receiver capsule rotatably and pivotally attached to a main body, and a cable pivot for allowing the headset connection cable to pivot with respect to the receiver capsule (Burris, Abstract). Burris does not disclose or suggest a headset body with a curved profile substantially perpendicular to the plane of the user's ear.

The Examiner cited Braund for teaching a headset body including a call switch in the form of an alphanumeric keypad and does not remedy the deficiencies of Nagayoshi and Burris noted above.

Jensen does not remedy the deficiencies of Nagayoshi noted above. Jensen discloses a headset having a receiver assembly that is rotatable between a position at which the receiver assembly is against the ear and a position at which the receiver assembly is rotated away from the ear (Jensen, Abstract). Jensen does not disclose or suggest a headset body with a curved profile substantially perpendicular to the plane of the user's ear.

The Examiner cited Fitzgerald for disclosing a microphone operably coupled to a headset body and does not remedy the deficiencies of Nagayoshi noted above.

In contrast, amended Claims 1 and 17 recite a headset body including a "curved profile substantially perpendicular to the plane of the user's ear" and "a headset tail operably coupled to the headset body, wherein the headset tail includes a curved structure with a free end capable of flexing open and close for contacting a lower portion of the user's ear" (emphasis added), in addition to other limitations. Therefore, because Nagayoshi, Burris, Braund, Jensen, and Fitzgerald do not disclose or suggest all the limitations of Claims 1 and 17, Claims 1 and 17 are patentable over the cited references.

Claims 2-16 and 18-28 are dependent upon Claims 1 and 17, respectively, and include additional limitations that further distinguish them from the cited references. Therefore, Claims 2-16 and 18-28 are allowable over the cited references at least for the same reasons provided above for Claims 1 and 17, respectively.

Therefore, Applicant requests withdrawal of the rejections under 35 U.S.C. §§ 102 and 103.

Allowable Subject Matter

Claims 4, 9, and 22-26 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claims 4 and 9, and 22-26 are dependent upon Claims 1 and 17, respectively, and contain additional limitations that further distinguish them from the cited references. Therefore, Applicant submits Claims 4 and 9, and 22-26 are allowable over the cited references for the same reasons provided above for Claims 1 and 17, respectively.

Applicant wishes to thank the Examiner for the indication that Claims 29-31 are allowed.

**CONCLUSION**

For the above reasons, Applicant believes pending Claims 1-31 are now in condition for allowance and allowance of the Application is hereby solicited. If the Examiner has any questions or concerns, the Examiner is hereby requested to telephone Applicant's Attorney at (831) 458-7490.

Respectfully submitted,



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